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NEWS RELEASE

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Feb. 18, 2008

Ministry of Attorney General
and Minister responsible for Multiculturalism

TERMS OF REFERENCE ANNOUNCED IN DZIEKANSKI INQUIRY

VICTORIA – Attorney General Wally Oppal has released terms of reference for a public inquiry into the October 2007 death of Robert Dziekanski at Vancouver International Airport.

Two commissions of inquiry will be headed by Thomas R. Braidwood, QC. A study commission of inquiry will be established first to report on the use of conducted energy weapons (Tasers) in British Columbia. A second hearing and study commission of inquiry will be convened to provide Dziekanski's family and the public with a complete record of the circumstances of his death.

"Given the overlapping reviews and investigations now being conducted, combined with the jurisdictional complexity of this tragic incident, we felt it prudent to adopt a two-phased approach," said Oppal. "The federal government has indicated that it will co-operate."

Braidwood is the sole commissioner of both inquiries. He will complete the study commission on conducted energy weapons by this June 30. The commissioner will determine when the inquiry into Dziekanski's death can begin. An important factor in his decision will be the status of the coroner's inquest, scheduled for May 5 to 16, and the criminal investigation. Section 15 of the Public Inquiry Act provides that a hearing commission must not unduly prejudice the rights and interests of a participant against whom a finding of misconduct, or a report alleging misconduct, may be made.

Government's commitment to hold a commission of inquiry into this incident was announced in November 2007 by Solicitor General John Les and is established under the Public Inquiry Act. Under the act, a hearing commission can compel attendance by witnesses and make findings of misconduct against individuals. A study commission does not have these powers.

The attorney general is responsible for the Public Inquiry Act and receiving Braidwood's reports. Public inquiry reports are tabled before the Legislative Assembly, following a review related to the applicable sections of the Freedom of Information and Protection of Privacy Act. Oral hearings are open to the public, unless the inquiry commissioner determines that protection of a personal or public interest requires otherwise.

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1 backgrounder(s) attached.

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BACKGROUNDER

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THOMAS R. BRAIDWOOD, QC, COMMISSIONS OF INQUIRY PURPOSE AND TERMS OF REFERENCE

The commissioner is appointed and terms of reference set out by an order-in-council (OIC) under the Public Inquiry Act. The text below is taken from the OIC. Unless otherwise noted, section numbers refer to the numbered points under "establishment of two commissions."

Definitions (excerpt)

In this Order: (Section 1)

- "Conducted energy weapon" means a weapon or device commonly referred to as a Taser
- "Mr. Dziekanski" means Mr. Robert Dziekanski, who died at the Vancouver International Airport on October 14, 2007

Establishment of two commissions

1. A study commission, called the Thomas R. Braidwood, Q.C., Study Commission, is established under section 2 of the Public Inquiry Act to inquire into and report on the use of conducted energy weapons by the following in the performance of their duties and the exercise of their powers:
(a) constables of police forces of British Columbia, other than the RCMP;
(b) sheriffs under the Sheriff Act;
(c) authorized persons under the Correction Act.

2. A hearing and study commission, called the Thomas R. Braidwood, Q.C., Hearing and Study Commission, is established under section 2 of the Public Inquiry Act to inquire into and report on the death of Mr. Dziekanski.

3. Thomas R. Braidwood, Q.C., is the sole commissioner of each of the commissions established under this section.

Purposes of the commissions

1. The purpose of the study commission established under section 2 (1) is to make recommendations respecting the appropriate use of conducted energy weapons by constables, sheriffs and authorized persons referred to in section 2 (1), in the performance of their duties and the exercise of their powers.
2. The purposes of the hearing and study commission established under section 2 (2) are as follows:
(a) to provide Mr. Dziekanski's family and the public with a complete record of the circumstances of and relating to Mr. Dziekanski's death;
(b) to make recommendations referred to in section 4 (2) (c).

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Terms of reference

1. The terms of reference of the inquiries to be conducted by the study commission established under section 2 (1) are as follows:

(a) to review current rules, policies and procedures applicable to constables, sheriffs and authorized persons referred to in section 2 (1) in respect of their use of conducted energy weapons and their training and re-training in that use;

(b) to review research, studies, reports and evaluations respecting the safety and effectiveness of conducted energy weapons when used in policing and law enforcement in British Columbia and in other jurisdictions;

(c) to make recommendations respecting

(i) the appropriate use of conducted energy weapons by constables, sheriffs and authorized persons referred to in section 2 (1) in the performance of their duties and the exercise of their powers, and

(ii) the appropriate training or re-training of those constables, sheriffs and authorized persons in that use of conducted energy weapons.

(d) to submit a report to the Attorney General on or before June 30, 2008.

2. The terms of reference of the inquiries to be conducted by the hearing and study commission under section 2 (2) are as follows:

(a) to conduct hearings, in or near the City of Vancouver, into the circumstances of and relating to Mr. Dziekanski's death;

(b) to make a complete report of the events and circumstances of and relating to Mr. Dziekanski's death, not limited to the actual cause of death;

(c) to make recommendations the commissioner considers necessary and appropriate;

(d) to submit a report to the Attorney General on or before a date to be determined by the Attorney General in consultation with the Commissioner.

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